

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

HORIZON CELLULAR TELEPHONE COMPANY OF)	
SPENCER, L.P., A DELAWARE LIMITED)	CASE NO. 93-345
PARTNERSHIP, FOR AUTHORITY TO ASSUME)	
CERTAIN LIABILITIES)	

O R D E R

On December 21, 1993, the Commission granted reconsideration of its Order of November 23, 1993, denying confidential protection for certain information filed by Horizon Cellular Telephone Company of Spencer, L.P. ("Horizon Cellular"), and it appearing to the Commission as follows:

On November 1, 1993, Horizon Cellular filed a copy of a credit agreement in response to the Commission's Order of October 5, 1993. The agreement establishes a line of credit from Banker's Trust Company and CitiCorp North America, Inc., for Horizon Cellular and its subsidiary Horizon Financial Corporation. The primary purpose of the line of credit is to provide funds to be used in conjunction with other funds of the company to acquire existing cellular telephone properties. In its request for reconsideration, Horizon Cellular seeks to protect those portions of the credit agreement which reveal the areas where Horizon Cellular will seek to acquire such properties and also the conditions by which certain of the funds will be advanced under the agreement.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted

by statute. Exemptions from this requirement are provided in KRS 61.878(1). That section of the statute exempts 11 categories of information. One category exempted in subparagraph (c) of that section is commercial information confidentially disclosed to the Commission. To qualify for that exemption, it must be established that disclosure of the information is likely to cause substantial competitive harm to the party from whom the information was obtained. To satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

Horizon Cellular competes with other cellular telephone companies when it seeks to acquire existing cellular systems. Knowledge of Horizon Cellular's financial capability would have substantial value to those who compete with Horizon Cellular in seeking to acquire any cellular system. Therefore, disclosure of the conditions upon which funds are made available under the credit agreement is likely to cause Horizon Cellular competitive injury and the information should be protected as confidential.

Horizon Cellular also seeks to protect as confidential the geographic areas it has targeted for other cellular systems. However, these geographic areas are so large and the information is so general that disclosure is not likely to cause Horizon Cellular competitive injury. Therefore, protection of that information should be denied.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The petition to protect as confidential the conditions upon which certain of the proceeds will be advanced under the credit agreement, which Horizon Cellular has petitioned be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

2. The petition to protect as confidential the geographic areas identified in the credit agreement in which Horizon Cellular seeks to acquire other cellular systems, be and is hereby denied.

3. Horizon Cellular shall on or before 20 days from the date of this Order file an edited copy of the credit agreement for inclusion in the public record obscuring only those parts of the agreement protected by this Order.

Done at Frankfort, Kentucky, this 27th day of January, 1994.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director